

Resolution Number TC-1735

BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes of May 20 and 21, 2009 are hereby approved as published in the official agenda.

**Transportation Commission of Colorado
Regular Meeting Minutes
May 21, 2009**

Chairman Bill Kaufman convened the meeting at 9:40 a.m. in the auditorium of the headquarters building in Denver Colorado.

**PRESENT WERE: Bill Kaufman, Chairman, District 5
Henry Sobanet, District 1
Jeanne Erickson, District 2
Gregory B. McKnight, District 3
Heather Barry, District 4
George Krawzoff, District 6
Doug Aden, District 7
Steve Parker, District 8
Les Gruen, District 9
Gilbert Ortiz, Sr., District 10
Stacey Stegman, Secretary/Public Relations Director**

ABSENT WAS: Kimbra L. Killin, Vice Chairwoman, District 11

Chairman Kaufman excused Commissioner Killin from attending the meeting.

**ALSO PRESENT: Executive Director Russ George
Peggy Catlin, Deputy Executive Director
Pam Hutton, Chief Engineer
Travis Vallin, Aeronautics Division Director
Heather Copp, Chief Financial Officer
Rick Gabel, Staff Services Director
Kim Heldman, Chief Information Officer
Tony DeVito, Region 1 Transportation Director
Tim Harris, Region 2 Transportation Director
Weldon Allen, Region 3 Transportation Director
Bob Garcia, Region 4 Transportation Director
Randy Jensen, Region 6 Transportation Director
Harry Morrow, Chief Transportation Counsel**

**Doug Bennett, Federal Highway Administration
Deputy Division Administrator**

**AND: Vince Rogalski, Statewide Transportation Advisory
Committee (STAC) Chairman**

**AND: Other staff members, organization representatives,
the public and the news media**

**Two audiotapes of the meeting were made and supporting documents are
filed in the Transportation Commission office.**

Oath of Office

**In accordance with the Commission's General Rules of Practice and
Procedure, Commission Assistant Dianne Cavaliere administered the oath
of office to Gilbert Ortiz, Sr.**

Audience Participation

**Colorado Asphalt Pavement Association Executive Director Tom Peterson
informed the Commission that about 500 construction industry partners
traveled to Washington DC and visited with each of the Colorado
Congressional offices and six of the Congressional Delegation. The intent
of the "fly-in" was to demonstrate support for additional transportation
funding and specifically the reauthorization of SAFETEA-LU. The group
also met with the Senate and House leadership and took an opportunity
to listen to Transportation and Infrastructure Chairman Oberstar relay his
vision for the reauthorization framework.**

**The coalition's message was that America's transportation needs cannot
be met without new revenue sources of at least a gas tax increase of 10
cents, a diesel tax of 15 cents including other funding options, with
timely reauthorization. The message received was to educate the public
about the role of transportation and funding for the overall economy. Mr.
Peterson gave the secretary a briefing packet and commemorative pin
stating that "transportation fuels our economy."**

Comments of Individual Commissioners

**Commissioner Gruen attended the Motorcycle Safety event in Colorado
Springs. Thoughtful remarks were given by Chief Engineer Hutton,
Colorado Springs Chief of Police Richard W. Myers and the Colorado State
Patrol Chief, Colonel James M. Wolfinbarger. He expressed his
appreciation of Chief Financial Officer Heather Copp and Federal Liaison**

Mickey Ferrell for traveling to Washington DC to distribute the white paper on the extreme negative impacts of the Fiscal Year 2009 Rescissions.

Commissioner Krawzoff traveled to Jackson, Clear Creek and Gilpin counties to meet with the county commissioners. He also attended the Colorado Association of State Transit Agencies (CASTA) conference along with Commissioners Erickson and McKnight. He was pleased with the high level of excitement about the progress to integrate transit with the transportation modes. While traveling to Walden, a vehicle passed in a no passing zone, which renewed his concern about the need for shoulders throughout rural Colorado.

Commissioner Krawzoff stated his business for the past thirty years has been in transit. For transparency, he disclosed that he responded to a Request for Proposal (RFP) for a transit routing study for the Town of Castle Rock. He also joined a team that will respond to an RFP in the Roaring Fork Valley for bus rapid transit management services. He intended to recuse himself from any action that may come to the Commission should there be a conflict of interest.

Commissioner Sobanet reported that he and Commissioner McKnight attended a meeting with Region 6 staff and the President of the Elyria Neighborhood Association regarding the I-70 East Draft Environmental Impact Statement.

Commissioner Ortiz stated his intent to meet with the county commissioners within his district within the next three months. He intended to keep listening and learning to ensure transportation concerns continue to be addressed within his district as well as the state.

Commissioner McKnight and RTD DeVito met with the Douglas County Commissioners and Castle Rock regarding Meadows Parkway. He also attended the CASTA conference and welcomed the new opportunity to focus on transit and rail needs in the State.

Commissioner Erickson reported attending the first ARRA project grand opening at Belleview and Santa Fe with Commissioner McKnight. She was very pleased with the bill signing for the Division of Transit and Rail in that CDOT may now take on its proper role as a leader in transportation in Colorado.

Commissioner Aden attended individual county meetings in Grand Junction, Gunnison, Glenwood, Delta, Montrose, Aspen, Eagle, Leadville and Breckenridge. He said it's obvious CDOT's regional staff have worked diligently to develop excellent relationships. During his travel, he was

very concerned with rural road conditions especially on US 50 between Montrose and Gunnison and portions of State Highway 91. He also attended the quarterly meeting of the Mesa County MPO.

He pointed out the opening ceremonies for the Grand Valley Transit operations facility conflicted with the Commission meeting. The project was funded with SB 10 10 percent for transit funding of \$3.2 million. Land was contributed by the city of Grand Junction and Mesa county contributed in-kind services, another example of cooperation leading to a strategic investment.

Commissioner Aden also appreciated the contributions by those staffers that work so hard on the many pieces of legislation that impacted transportation. He recognized Legislative Liaison Melissa Nelson, the Governor's Senior Policy Director Carla Perez and Executive Director George for their heavy lifting and tireless work on behalf of transportation.

Chairman Kaufman congratulated RTD Garcia on the successful completion of the three-lane project on Interstate 25 north of Denver.

Executive Director's Report

Executive Director George summarized his activities since the meeting in April. He traveled to Sacramento to meet with the WASHTO Chief Executive Officers noting that only 6 out of 18 officials were able to attend in light of budget cuts and legislative sessions. He was pleased to attend the "Transportation Toast" an event to celebrate a successful legislative session with constituents and partners and recognize the efforts of Governor Ritter and the legislators.

He attended the groundbreaking ceremony for the first ARRA project and was excited the contractor was on-site, set-up and ready to go once the event was concluded. He thought the signing of Senate Bill 09-94 was truly a historical event in light of the coming 100th Anniversary of CDOT.

Other miscellaneous activities were attending the retirement event in Region 4, attending the maintenance employees' forum in Region 6 and tackling significant work at his desk.

Deputy Executive Director Report

Deputy Executive Director Peggy Catlin discussed the finance plan and project management plan and the eight-year effort among the Regional Transportation District, the City and County of Denver, the Denver Regional Council of Governments and CDOT for the development Denver

Union Station (DUS) as a multi-modal transportation hub and the cornerstone of RTD's FasTrack system.

She informed the Commission that on the last day for public comment on the Record of Decision ColoRail filed a lawsuit to block the current redevelopment plan for DUS. ColoRail claims the plan favors private developers over transit riders and asked the court to enjoin the Federal Transit Administration from further progress or funding on the project. Ms. Catlin felt ColoRail had some legitimate concerns, but practicality versus the optimum build-out had to be balanced. She was fairly comfortable that the extensive outreach process and the environmental document would withstand the legal test. A limited notice to proceed was issued to Kiewit.

Commissioner Aden relayed that via email, Mr. Jon Esty stated the plan does not accommodate possible future passenger rail service and a seamless connection to the FasTracks system and stated, "I would ask you and your fellow commissioners to please take another look at this issue and ask for changes in the plan that would accommodate passenger rail service from elsewhere in the state other than those areas served by FasTracks in the Denver Metro area." Commissioner Aden remembered Mr. Esty making the same comments to the Commission early on. And he intended to thank Mr. Esty for his comments and express his personal support of the work that has been accomplished.

Regarding the Interstate 25 Express Lanes, Ms. Catlin stated that revenues and traffic are increasing since the winter season; Region 6 has completed joint work, patching, new concrete and sealer on the lanes; and work is progressing to upgrade the cameras. She then distributed the April and May 2009 Monthly Progress Reports.

Chief Engineer Report

Chief Hutton informed the Commission that replacement of the Loveland Pass culvert that collapsed would cost about \$5 thousand. The expenditure would be handled through the maintenance budget, mainly because the appropriate size and length of pipe was on hand.

She reported traveling Chicago for an AASHTO meeting where Colorado was recognized for leading the nation in reducing the number of fatal accidents on the highway network. She then travelled to Pennsylvania for the AASHTO Spring meeting to attend the Standing Committee on Highways session. An important component was the workshop on strategic planning. She noted that historically, Chief Engineers are very technical and project delivery oriented and now with good facilitation, the engineers are supporting strategic planning and technical services to new

initiatives on climate change performance measures, accelerated project delivery, safety and employee and workforce development to name a few.

Regarding ARRA, Chief Hutton announced that CDOT achieved the 120 day, \$141 million goal during the week of May 11th. She then used a powerpoint presentation to update the Commission on the Governor's certifications, ARRA funding, strategic planning and communication and outreach. To date, 90 projects have been identified between CDOT and local agencies; 37 projects have been obligated and 29 projects advertised; 22 bids were opened and 12 contracts have been awarded with 7 pending contracts; and 9 notices to proceed have been issued.

Chief Hutton also reviewed the \$1.5 billion Multimodal Discretionary Grants Program. The program is open to cities, counties, states and transit agencies. Guidance was released through the Federal Register on May 18th; comments are due June 1st; applications are due September 15th and the awards will be announced on February 17th.

Regarding ARRA year end, Ms. Hutton noted that bid savings are being realized and FHWA will redistribute unspent monies on June 29th and the transit dollars would be redistributed on September 1st. One hundred percent of the allocation and redistribution must be obligated by March 2, 2010 and the second redistribution must be obligated by September 30th.

Final Legislative Report

Government Relations Director Herman Stockinger acknowledged the legislative team for their work during the 2009 Session of the Colorado General Assembly. He pointed out that Executive Director George logged many hours early in the session that led to the enactment of the FASTER legislation within the first 60 days of the session. He was impressed with Transportation Development Director Jennifer Finch's tenacity to help enactment of the legislation for the creation of a division of transit and rail. Mr. Stockinger was convinced that Legislative Liaison Melissa Nelson overcame many obstacles that could not be accomplished by himself or very few lobbyists.

Ms. Nelson summarized the policy, fiscal and personnel issues addressed during the session. She noted that CDOT's agenda was passed with relatively little controversy, specifically HB09-1066, concerning the codification of existing practices of the Division of Aeronautics in state statute; SB09-78 to allow consensual agreements with local governments to take certain state highway segments off the State Highway System and making those segments local roads in exchange for agreed upon compensation paid by CDOT to the local government; and SB09-94 that allows for the creation of a division of transit and rail within CDOT.

She noted that enactment of SB09-108, the omnibus bill known as FASTER (Funding Advancements for Surface Transportation and Economic Recovery) was a huge success for CDOT. HB09-1318 was initiated by CDOT to address some unintended consequences from last minute amendments to the FASTER bill. The technical clean-up restored legal weight limits to 85 thousand pounds and created a new overweight permit for carriers of divisible loads to carry up to 97 thousand pounds with either a tandem or triple-axle on the trailer. The bill also created a new six-month permit which was strongly supported by the agriculture industry. The permits will be available beginning January of 2010.

SB09-228 eliminates the 6 percent growth limit of the general fund imposed by the Arveschoug-Bird limit. The bill permanently eliminates SB97-001 and HB02-1310 transfers and the 10 percent for transit provision. The bill does allocate 2 percent of General Fund revenues to transportation in FY 2012-13 through FY 2016-17 when there is a 5 percent growth in personal income. SB09-274 diverts \$12.9 million from the Highway Users Tax Fund (HUTF) to the Licensing Services Cash Fund (LSCF) to fund the Division of Motor Vehicle (DMV) for FY09-10.

In conclusion Ms. Nelson noted that Transportation Commissioner Gilbert Ortiz, Sr. was confirmed by the Senate and Aeronautical Board members Dennis Heap and Joseph Thibodeau were reappointed and confirmed.

FHWA Division Deputy Administrator Report

FHWA Division Deputy Administrator Doug Bennett said FHWA is directing CDOT on the specific data that must be collected from the contractors to provide consistency in ARRA reporting nationwide. He was very pleased with CDOT's progress to obligate the ARRA funds and felt Colorado would be well-poised for redistribution.

Statewide Transportation Advisory Committee Report

STAC Chairman Vince Rogalski reported on the STAC meeting held on Friday May 15th. The agenda included a state and federal legislative update, the submission of the Reauthorization Earmarks and a status report on Safe Routes to School. STAC is very concerned about the extreme negative impact of potential rescissions.

Safety Committee Report

Safety Committee Chairman Sobanet reported the "100 Safe Days of Summer" safety campaign kicks-off on May 22nd and runs through September 8th. CDOT's incident reduction goal is 25 percent for personal

injuries and vehicle incidents statewide as compared to fiscal year 2009 data. Staff intends to continue the emphasis on recognizing employees, who are accident and injury free, to communicate through monthly employee safety updates and through requesting employee input and feedback. Year to date safety data reflects a 22 percent reduction in personal injuries and a 6 percent increase in vehicle incidents.

The Office of Transportation Safety and the Regional Safety Officers completed the FY 2010 Statewide Employee Safety Action Plan which now includes the Safety Accountability and Incentive sections. The Safety Committee and staff will continue the path to a “world class” safety program through Safety Leadership at all levels employee involvement, and management commitment.

Public Information Officers Heather Halpape and Mindy Crane provided updates on the Safety Campaigns. The Click it or Ticket Campaign runs May 18th through May 31st and a record number of agencies are participating. News events to kick off the Motorcycle Campaign were held in Golden and Colorado Springs. Regarding 100 Days of Heat, a DUI news event is scheduled on May 21st. The Slow for the Cone Zone campaign runs annually from June through September. Overtime enforcement will be in selected work zones. CDOT is also working closely with the Colorado State Patrol to implement a photo radar program.

DBE Committee Report

Commissioner McKnight relayed that community and business representatives commented on the Good Faith Effort (GFE) process. EO Director Debra Gallegos agreed to hold an open forum to explain the GFE process and to address questions and comments. She also offered to meet individually with interested business and community representatives. Staff was requested to review the GFE process including an analysis of historical data and to schedule a GFE workshop.

The statewide ARRA Outreach events were reviewed and staff agreed to prepare a DBE Report on ARRA Projects. Two new training providers were selected to provide entry level construction training and job placement. Additional funding has been requested from FHWA for the On-the-Job Training and DBE Supportive Services. Although the Disparity Study has not been finalized, some of the data will be used as part of the DBE Goal Setting process. DBE Participation is 9.8 percent through March 2009 and a breakdown of the CDOT Bidders’ activity was considered.

Transit and Intermodal Committee Report

Transit and Intermodal Committee Chairman Parker was pleased with the signing ceremony when Governor Ritter formally signed Senate Bill 09-94 that creates a Transit and Rail Division within CDOT.

RMRA Chairman Harry Dale provided a status report on the feasibility of high speed rail in the I-25 and I-70 corridors. The RMRA is made up of 52 local agencies that contributed funds to make up the local match requirement. The study is expected to be completed in the summer of 2009. The results to date support a finding that high speed rail in these corridors can meet the feasibility criteria listed by the Federal Rail Administration. The study found the most feasible service area would be generally from Fort Collins to Pueblo along the I-25 corridor and from the Denver International Airport to the Eagle County airport along the I-70 corridor and extensions may be feasible at a later date. The intent of this effort is to support the designation of these corridors as the 11th High Speed Rail corridor.

The Committee also considered key concepts to replace the policy directive adopted in 1977 by the Highway Commission. The concepts include integrating bicycle and pedestrian considerations into all phases of planning, project development and operations and maintenance as a matter of routine. A strong education and enforcement component will be incorporated at Commissioner Krawzoff's suggestion. Comments on the policy from the STAC will also be solicited.

Chairman Parker continued that the Division of Transit and Rail legislation calls for an interim advisory committee to be formed within 90 days. The four areas of interest to be represented are transit operators, class I railroads, short line railroads, and entities or interest groups involved with passenger rail. Executive Director George will appoint the committee in consultation with the Commission. A conference call will be held to discuss the appropriate size of the advisory committee. The charge would be to advise CDOT on the organizational structure of the Division and the initial focus and to recommend a long term advisory structure. Staff was requested to proceed with a solicitation of interest process with a due date of June 12th.

Consent Agenda

Chairman Kaufman asked for consideration of the consent agenda and on a motion by Aden a second by Erickson and a vote of the Commission, the following resolutions were unanimously adopted.

Resolution Number TC-1722

BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes of April 15 and 16, 2009 are hereby approved as published in the official agenda.

Resolution Number TC-1723

WHEREAS, the Colorado Transportation Commission has statutory authority pursuant to 43-1-106, C.R.S. to approve, accept, and amend various planning documents resulting from Section 135 Title 23 of the USC, and 43-1-1101 through 1105 C.R.S.; and

WHEREAS, the Commission adopted the 2008 – 2013 Statewide Transportation Improvement Program (STIP) in March, 2008; and

WHEREAS, the STIP is occasionally amended due to significant changes in project scope or projects need to be programmed in or out of the first four years of the STIP, thereby requiring a policy amendment to the STIP; and

WHEREAS, the Section 450 Title 23 of the CFR requires a public process be implemented for review and comment on proposed policy amendments, as well as Transportation Commission approval of said amendments; and

WHEREAS, the public process for the policy amendments set before the Commission for the month of Amendment #13 was provided from April 16 through May 20, 2009 and no comments were received; and

WHEREAS, it is requested that the Transportation Commission approve the policy amendments to the STIP which are detailed in the attached table and direct staff to forward this approval to the Federal Highway Administration and the Federal Transit Administration for concurrence.

NOW, THEREFORE, BE IT RESOLVED, the attached STIP Policy Amendment package for Amendment #13 be adopted and forwarded to the Federal Highway Administration for concurrence.

BE IT FURTHER RESOLVED, after said concurrence is received from the Federal Highway Administration, staff from the CDOT Office of Financial Management and Budget will finalize the policy amendments in the STIP Database.

Resolution Number TC-1724

WHEREAS, it is the statutory responsibility of the Transportation Commission of Colorado to set policies and establish rules for the

Colorado Department of Transportation (CDOT); and

WHEREAS, the Executive Management Team has developed a formal policy statement regarding the commemoration of lives lost on a State Highway.

WHEREAS, Policy Directive 1501.0 was revised as necessary to meet the requirements of Senate Bill 04-186 concerning the Authorization of Roadside Memorials within Public Highway Easements. CDOT will install roadside memorial signs for traffic crash related fatalities at the request of applicants who meet the program criteria.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission has reviewed Policy Directive 1501.0 entitled Roadside Memorial Signing and hereby adopt the policy as contained in the official agenda.

Resolution Number TC-1725

WHEREAS, it is the statutory responsibility of the Transportation Commission of Colorado to set policies and establish rules for the Colorado Department of Transportation (CDOT); and

WHEREAS, the Commission has established procedures relative to formulating policies and rules for consideration; and

WHEREAS, Policy Directive 1901.0 entitled CDOT Policy on Air Quality has been revised to respond to Executive Order D 004 08, entitled Reducing Greenhouse Gases in Colorado, as signed by Governor Bill Ritter.

NOW THEREFORE BE IT RESOLVED, that Policy Directive 1901.0, CDOT Policy on Air Quality is hereby adopted as submitted in the standard form for use in the CDOT.

Resolution Number TC-1726

WHEREAS, it is the statutory responsibility of the Transportation Commission of Colorado to set policies and establish rules for the Colorado Department of Transportation (CDOT); and

WHEREAS, the Commission has established procedures relative to formulating policies and rules for consideration; and

WHEREAS, per the guidance of the Commission, Policy Directive 1401.0 provides a systematic process to ensure that products, both current and

new, are equitably evaluated and posted on the CDOT Approved Products Lists website.

NOW THEREFORE BE IT RESOLVED, that Policy Directive 1401.0 Product Evaluation and Experimental Features is hereby adopted by the Commission as submitted for immediate implementation by CDOT.

Resolution Number TC-1727

WHEREAS, it is the statutory responsibility of the Transportation Commission of Colorado to set policies and establish rules for the Colorado Department of Transportation (CDOT); and

WHEREAS, the Commission has established procedures relative to formulating policies and rules for consideration; and

WHEREAS, the Policy Directive 803.0, Naming Highways, Bridges or other Components, dated July 20, 2000 has been reviewed by the EMT and now reflects a new review date and was renumbered to 1503.0.

NOW THEREFORE BE IT RESOLVED, that Policy Directive 1503.0, entitled Naming Highways, Bridges or other Components of the Highway is hereby adopted as published in the official agenda.

Resolution Number TC-1728

WHEREAS, it is the statutory responsibility of the Transportation Commission of Colorado to set policies and establish rules for the Colorado Department of Transportation (CDOT); and

WHEREAS, the Commission has established a Policy Directive 12.0 Workplace Accommodations for Nursing Mothers; to comply with Senate Bill 04-088 and House Bill 08-1276, Workplace Accommodations for Nursing Mothers Act; and

WHEREAS, the Commission recognizes the need to provide reasonable and dignified alternative work arrangements to its employees during the first two years of nursing.

NOW THEREFORE BE IT RESOLVED, Policy Directive 12.0, entitled, Workplace Accommodations for Nursing Mothers is hereby adopted as submitted in the standard form for use in CDOT.

I-70 Central Park Boulevard Interchange Feasibility Study

Project Engineer Jim Bemelen requested the Commission's approval of the system level study; authorize CDOT to execute Intergovernmental Agreements (IGAs) with the City & County of Denver for the funding, ownership and maintenance of the I-70/CPB interchange; and authorization for CDOT and the City & County of Denver to proceed with the design/build project, subject to final CDOT/FHWA approval of Interstate Access Request, Environmental Assessment and Decision Document.

He then used a powerpoint presentation to provide an overview of the I-70 Central Park Boulevard Interchange Feasibility Study. The proposed new interchange, located between Quebec and Havana, is within the study limits of CDOT's I-70 East Environmental Impact Study (EIS) and does not preclude any remaining alternatives in that EIS. The City & County of Denver has nearly completed their I-70/CPB Interchange Environmental Assessment (EA). Both CDOT and FHWA previously agreed that Denver could conduct this EA within the limits of the I-70 East EIS.

Current funding includes \$12 million of ARRA from DRCOG; \$8 million of DRCOG Transportation Improvement Program funding; and \$30 million from the 2007 Better Denver Bond Program. DRCOG's deadline for obligation of the ARRA funds is September 1st. Mr. Bemelen stated the project is consistent with state, regional and local plans and Region 6 staff recommends approval by the Transportation Commission.

Deputy Mayor and Public Works Manager Bill Vidal stated the project as presented costs \$50 million and the developer plans to pay \$17 million for construction of the approaches. He noted that the ARRA was meant to accelerate projects and this project has a positive economic multiplier effect on construction and economic development. Denver Councilman Michael Hancock also spoke in support of the project and requested the Commission's continued support of the project. Commissioner Sobanet moved for approval of the resolution, with a second by McKnight and on a vote of the Commission, the following resolution was unanimously adopted.

Resolution Number TC-1729

WHEREAS, in December 2004 the Transportation Commission approved revisions to Policy Directive 1601 concerning the state highway interchange approval process; and

WHEREAS, construction of a new interchange at Interstate 70 and Central Park Boulevard will provide a connection to I-70 that supports local and regional access to/from the existing and planned land uses serviced by Central Park Boulevard north and south of I-70;

WHEREAS, the existing interchanges at (a) I-70 and Quebec Street and (b) I-70 and Havana Street are not adequate to efficiently serve the travel demand generated by Stapleton Redevelopment and other development projects in this vicinity;

WHEREAS, the City and County of Denver has completed a System Level Study (SLS) for a proposed interchange at I-70 and Central Park Boulevard; and

WHEREAS, the SLS documents the need for the proposed interchange to accommodate anticipated travel volumes at acceptable levels of service for the next 20 years; and

WHEREAS, the staff of the Colorado Department of Transportation (CDOT) has reviewed the SLS and found it to be consistent with the Policy Directive 1601; and

WHEREAS CDOT staff have reviewed the SLS and found that the new Central Park Boulevard interchange will not preclude alternatives under consideration in the I-70 East Draft Environmental Impact Statement (DEIS); and

WHEREAS, the total implementation cost of the proposed interchange improvements is estimated to be \$50 million in 2009 dollars (not including right-of-way costs); and

WHEREAS, funding commitments for the full cost of the interchange are identified in the Denver Regional Council of Government's (DRCOG) fiscally constrained 2035 regional transportation plan to be funded with a combination of regional and local funds; and

WHEREAS, the City and County of Denver is not requesting any financial support or in-kind assistance from CDOT for environmental clearance, design, construction, or ROW;

WHEREAS, the City and County of Denver understands that local matching funds will be required if any federal funds are received; and

WHEREAS, the City and County of Denver will, during the NEPA process, prepare a detailed funding plan with appropriate formalized commitments for implementing the proposed I-70 and Central Park Boulevard interchange; and

WHEREAS, the City and County of Denver must obtain approval of the applicable interchange access, design and environmental decision

documents by the Federal Highway Administration and CDOT prior to final Policy Directive 1601 approval by the Transportation Commission.

NOW THEREFORE BE IT RESOLVED,

- 1. The Transportation Commission approves the SLS for the proposed interchange at I-70 and Central Park Boulevard.**
- 2. CDOT, through the Chief Engineer or designee, is authorized to enter into an Intergovernmental Agreement (IGA) with the City and County of Denver for the associated environmental, design, construction, maintenance and operations of the facilities contained within the SLS study area.**

BE IT FURTHER RESOLVED THAT,

- 3. The City and County of Denver does not expect financial support from the Department.**
- 4. The final approval and authorization of Policy Directive 1601 is contingent on:**
 - Completion and approval of the appropriate NEPA decision document consistent with federal regulations and the CDOT Environmental Stewardship Guide; and**
 - Approval of applicable interchange access, design, financial plan, construction and environmental permitting documents by the appropriate agencies; and**
 - Approval by the Chief Engineer of an IGA for the financing, design, construction, maintenance and operations of the facilities associated with the construction of the proposed interchange consistent with the SLS and future NEPA decision document. The City and County of Denver and CDOT will prepare an IGA which provides for the future maintenance responsibilities of the City and County of Denver for the new interchange.**

Twelfth Supplement to the Fiscal Year (FY) 2009 Budget

Chief Financial Officer Heather Copp reviewed the significant items in the supplement by investment category. With adoption of the supplement, the balance of the Commission's Snow & Ice Contingency Reserve would remain at zero and the Transportation Commission Contingency Reserve Fund (TCCRF) would be \$74.6 million. Then on a motion by Parker second by Aden and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1730

BE IT RESOLVED, that the Twelfth Supplement to the Fiscal Year 2009 Budget be approved by the Commission.

Pilot Program under the Extra-Legal Vehicle Rule

Permit Office Manager Teresa Lawser stated the regulation authorizing emergency moves of Extra-Legal Vehicles, as interpreted and enforced, often results moving disabled vehicles twice. She requested a pilot program be authorized by the Commission to allow staff to take all necessary actions and communications with the trucking and tow carriers industries and enforcement agencies to reduce the number of times a disabled Extra-Legal Vehicle is towed. And then on a motion by Aden second by McKnight and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1731

WHEREAS, the specific authority for the Colorado Department of Transportation to promulgate rules and regulations and issue permits, pertaining to the movement of Extra-Legal Vehicles and Loads operating on the State Highway system, is contained in Section 42-4-501 to 512, C.R.S.; and

WHEREAS, in July 1984, the Commission adopted Rule 2 CCR 601-4 which set forth the Rule regulating Extra-Legal traffic on the State Highway System; and said Rule has been updated nine times including the current effective Rule dated August 1, 2007; and

WHEREAS, the regulation authorizing emergency moves of Extra-Legal Vehicles and Loads was first added to the rule in 1991 and has been amended over time to further define emergency moves and towing of disabled vehicles to the “nearest place of safekeeping” location off the traveled portion of the highway and conditionally during hours of curfew for such vehicles; and

WHEREAS, the current regulation as interpreted and enforced results in the disabled vehicles being moved twice, first to “the nearest place of safekeeping” and later to the vehicles’ ultimate destination for repair, which often compromises safety and at greater expense and effort of the motor carrier industry; and

WHEREAS, an agency is entitled to substantial deference in the interpretation and enforcement of its rules and regulations; and

WHEREAS, the Transportation Commission acknowledges that public safety is often compromised by requiring a disabled vehicle to be towed

twice under CDOT's current interpretation and the Department of Revenue's current enforcement of the CDOT regulation; and

WHEREAS, the Transportation Commission also recognizes the financial interest of the commercial trucking industry and the towing industry to allow towing of disabled vehicles beyond the nearest location and during hours of curfew restrictions; and

WHEREAS, the Transportation Commission agrees that consideration of revisions to the Rule is appropriate after a Pilot Program is implemented to monitor towing of disabled Extra-Legal Vehicles and Loads based on an interpretation of "the nearest place of safekeeping" to mean the final destination of the disabled vehicle; and

WHEREAS, the Transportation Commission directs CDOT staff to consider implementing the attached rule language change following implementation and evaluation of the Pilot Program; and

WHEREAS, the Transportation Commission has the authority to authorize the Pilot Program under § 43-1-108, C.R.S.; and to authorize staff to make a report of the Pilot Program, including any recommendations to the Transportation Commission for its review and action concerning any proposed changes to Rule 2 CCR 601-4.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission authorizes a Pilot Program through December 31, 2009 as described herein and to commence taking all necessary actions and communications with industry and enforcement agencies deemed appropriate, and to make a report with recommendations on or before its regularly scheduled September 2009 meeting.

Accommodation of Utilities on the State Highway System

Based on the workshop held on May 20th to review the Rulemaking Record, Audit Director Casey Tighe distributed a revised resolution for consideration by the Commission. And on a motion by Aden second by Parker and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1732

WHEREAS, the TC is charged with the responsibility for adopting rules pertaining to the State Highway Utility Accommodation Code, 43-1-225(1) C.R.S., and;

WHEREAS, the Colorado Department of Transportation has been informally regulating utility accommodations because no formal rules have yet been adopted by the TC, and;

WHEREAS, on November 20, 2008 the TC passed Resolution Number TC-1667 authorizing an Administrative Hearing Officer to conduct a rulemaking hearing and prepare a complete record of the hearing and recommend changes to the existing Rules based upon evidence presented at the hearing; and

WHEREAS, the rulemaking hearing was conducted on April 3, 2009, public comment was received and the Hearing Officer made a complete procedural record of the hearing, and;

WHEREAS, after public comment CDOT staff made changes to the proposed rules and those changes are reflected in Exhibit 16 of the hearing record, and;

WHEREAS, utility company representatives expressed concern over increased costs associated with raising the height of power lines crossing state highways. The record does not currently have sufficient cost information for the Commission to make a decision on raising the height requirements on power lines crossing the state highway;

NOW THEREFORE BE IT RESOLVED, the TC has considered the record of the hearing and the recommendations of the Administrative Hearing Officer.

BE IT FURTHER RESOLVED, the TC hereby remands the proposed rules to the CDOT Administrative Procedures Officer to gather additional information and testimony on issues relating to the height of power lines crossing the state highways, and the additional information shall be added to hearing record for consideration by the Commission at a future meeting.

ARRA Enhancement Project List

Ms. Kohrs presented the Enhancement projects as reviewed by the Commission during Wednesday's workshop. She noted the additional projects would be posted for public comment and be part of the foundation list should a substitute project need to be advanced or if additional funds become available. Commissioner Erickson moved for adoption of the resolution, seconded by Aden and on a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1733

WHEREAS, Congress has passed and the President of the United States has signed the American Recovery and Reinvestment Act (ARRA) of 2009 effective February 18, 2009; and

WHEREAS, the ARRA funds allocated include \$12.1 million for enhancement projects, \$74.9 million for distribution to the Transportation Management Agencies (TMA), and \$316.9 million to CDOT for regional priorities; and

WHEREAS, the ARRA funds allocated also include \$12.5 million in federal transit funds for non-urbanized rural areas as part of the Section 5311 program administered by CDOT; and

WHEREAS, CDOT Regions have been working with our planning partners to develop a list of projects that meet the eligibility requirements of the ARRA; and

WHEREAS, the list of projects that the CDOT Regions have developed in collaboration with their planning partners serves as the foundation list from which specific projects will be selected for implementation with ARRA funding available.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission approves the attached list of projects as eligible to be added to the ARRA foundation list; and

NOW THEREFORE BE IT RESOLVED, the Transportation Commission also approves the projects listed on the attached list as projects to be implemented with funds received from the ARRA, contingent upon their inclusion in the Statewide Transportation Improvement Program (STIP); and

NOW THEREFORE BE IT RESOVLED, that the Transportation Commission directs staff to move forward with the necessary STIP public process and approvals and budgeting actions required for the projects approved for implementation with ARRA funding; and

BE IT FURTHER RESOLVED, that the other projects on the ARRA foundation list will be retained in case of a need for a ready to go substitute project for ARRA funding, or to be advanced if additional funds become available due to a redistribution, or in some cases may be advanced with existing formula funds.

Acknowledgements

Chairman Kaufman pointed out that a Region 3 project that removed sediment and sand from the Black Gore Creek watershed on the west side of Vail Pass has received three honors. The first award was presented in Denver on February 24 when the project received the 2009 CDOT Environmental Process Award; the Max Rollefson Award of Merit from the Colorado-Wyoming Chapter of the American Fisheries Society was presented in Avon on March 20; and the next award was presented in Avon on March 20, by the Black Gore Creek Steering Committee.

Commissioner Aden noted that the Commission struggled to fund the Black Gore Creek and the Straight Creek projects during severe fiscal constraints. He hoped the Commission could continue the efforts not only because of benefits to the citizens along the Interstate 70 corridor but as an important commitment to CDOT's environmental stewardship.

On a motion by McKnight second by Barry and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1734

WHEREAS, the welfare, safety, and economic well-being of Colorado's citizens depend to great extent on the State's transportation system; and

WHEREAS, in 1995, Cal Marsella, as General Manager of the Regional Transportation District, began to plan and work with the Commission and the Colorado Department of Transportation; and

WHEREAS, as partners, CDOT and RTD and the Denver Regional Council of Governments established a cooperative and collaborative transportation planning process through the Regional Transportation Committee forum; memorandums of understanding were negotiated between RTD and CDOT to construct and manage the Southwest Light Rail Line, the Interstate 25 High Occupancy Toll Lanes and the Transportation Expansion (T-REX) Project; and agreements were developed for connections to the state highway system for RTD's FasTracks transit system and for redeveloping Denver Union Station to serve the needs of residents, tourists and commuters.

NOW THEREFORE BE IT RESOLVED, that sincere appreciation is hereby expressed to Cal in recognition of dedicated service to enhance and preserve Colorado's Transportation System for the benefit of all Colorado citizens. Best wishes are also expressed for Cal's future endeavors.

Other Matters and Adjournment

And there being no further matters to discuss, Chairman Kaufman adjourned the meeting at 11:50 a.m. on May 21, 2009.

**Stacey A. Stegman, Secretary
Transportation Commission of Colorado**